

Government of the District of Columbia
ZONING COMMISSION



ZONING COMMISSION ORDER NO. 396
Case No. 82-8C
May 16, 1983

Pursuant to notice, a public hearing of the District of Columbia Zoning Commission was held on January 10 and 31, 1983. At those hearing sessions the Zoning Commission considered a joint application from the Westminster Investing Corporation and the Pennsylvania Avenue Development Corporation (PADC) for consolidated review and approval of a Planned Unit Development (PUD), pursuant to Section 7501 of the Zoning Regulations of the District of Columbia. The hearing was conducted in accordance with the provisions of Chapter 6 of the Rules of Practice and Procedure before the Zoning Commission.

FINDINGS OF FACT

1. The application requested consolidated review and approval of a PUD for lots 12, 15-17, 807, 808, and 810-813 in Square 459 and for lots 7, 800, and 806-809 in Square 460. Portions of Indiana Avenue and C Street were proposed to be closed. The application proposed the construction of a mixed-use development including a retail/office building and a hotel/apartment building complex. The property is zoned C-3-C and no change of zoning was requested.
2. The application originally proposed that the office building would have a height of 110 feet, a floor area ratio (FAR) of 7.36, a lot occupancy of eighty-three percent, a gross floor area of 251,958 square feet, 28,388 square feet of which was first floor retail space, and 175 parking spaces.
3. The application further proposed that the hotel/apartment building would have a height of 130 feet, an FAR of 5.30, a lot occupancy of 44.2 percent, a gross floor area of 341,198 square feet, 15,732 square feet of which was first floor retail space, and 189 parking spaces. The hotel component was to have 240 rooms and the apartment component was to have 196 dwelling units.

4. The C-3-C District permits, as a matter-of-right, major business and employment centers of medium/high density development, including office, retail, housing, and mixed uses to a maximum height of ninety feet, a maximum FAR of 6.5 for residential and other permitted uses, and a maximum lot occupancy of one hundred percent.
5. Under the PUD process of the Zoning Regulations, the Zoning Commission has authority to impose development conditions, guidelines and standards which may exceed or be lesser than the matter-of-right development standards identified above.
6. The PUD site is located at and bounded by Sixth Street, and Indiana and Pennsylvania Avenues, N.W., consists of the eastern portions of Squares 459 and 460, and includes a substantial portion of C Street and Indiana Avenue, which are proposed to be closed.
7. The PUD site lies in the southeastern portion of Downtown, immediately north of the Mall and the eastern tip of the Federal Triangle. It forms part of the southwestern edge of the Judiciary Square complex of local and Federal Government buildings. It is the eastern anchor for the commercial portion of Pennsylvania Avenue running from Sixth Street to Fifteenth Street. Along with the historic buildings west of the site on the same two squares, it is the southern anchor of the mixed-use corridor along Seventh Street with its historically significant buildings and concentration of arts activities. It is also the eastern edge and an integral part of historic Market Square, the major gateway north to Gallery Place and Chinatown.
8. The area around and including Pennsylvania Avenue and the PUD site is zoned to permit high density commercial uses. Along the north side of Pennsylvania Avenue the land is zoned C-5 from Fifteenth to Tenth Streets, C-4 to Seventh Street, running north of Indiana Avenue to Sixth Street immediately adjacent to the subject site, and C-3-C for the remainder of the Avenue including Squares 459 and 460. South of Pennsylvania Avenue, the land is owned by the Federal Government and is not subject to the Zoning Regulations.
9. Across Pennsylvania Avenue to the south is the 114 foot high Federal Trade Commission Building. Further away on the Mall is located the National Gallery of Art. The one hundred foot D.C. Department of Employment Services building and new 130 foot District of Columbia Courthouse are east across Sixth Street within Judiciary Square. Across Indiana Avenue to the north is an existing 130 foot office building at 601 Indiana

which is to be renovated and become the USO Bob Hope Museum and Office Building. Next is a two-story parking garage which will be replaced by a 130 foot office building. Adjacent to that is an existing 130 foot office building at 633 Indiana Avenue site, but continuing to Seventh Street, are a group of five three-to-five story buildings built between 1812 and 1882. West of the site on the same square are the recently renovated sixty-foot National Bank of Washington (NBW) Building, a Category II Landmark, the seventy-five-foot Apex or Central National Bank Building, a Category III Landmark, and the fifty-three-foot Brady Buildings.

10. The Apex and Brady Buildings are currently being renovated for office and restaurant use. On the Seventh Street side of these buildings is located the Grand Army of the Republic Memorial and the Temperance Fountain.
11. Indiana Avenue has been designated a Category I Landmark place because of its importance in the original plan for the city.
12. The PUD site slopes gently down from Indiana Avenue to Pennsylvania Avenue, a total of about ten feet in elevation. The site is currently developed with various vacant or under utilized buildings, ranging in height from one to seven stories and which are scheduled for demolition. These consist of several low-scale mid-19th Century buildings, various non-descript 20th Century buildings and the architecturally interesting six-story Atlantic Coastline Building built in 1890, the facade of which is to be rebuilt as part of the proposed project. Also included in the PUD site is the eighty-foot right-of-way of C Street from the National Bank of Washington to Sixth Street and fifty feet of the Indiana Avenue right-of-way adjacent to the proposed hotel/residential building.
13. Ownership of the PUD site is generally split between PADC and Westminster. Westminster owns that portion of the site located on Square 460 and the Oriental Coffee House on Square 459. PADC owns the remainder of the PUD site on Square 459, except for Lot 12, the NBW building which is owned by the Argentine Naval Commission (with an easement granted to Westminster in exchange for use of the project parking garage). Indiana Avenue and C Street are currently public rights-of-way and when closed will revert to PADC. Westminster will purchase PADC's portion of the site in the Spring of 1983.

14. At the hearing session on January 10, 1983, the applicants revised their proposal and requested the Zoning Commission to grant some marketing flexibility by permitting the applicants to interchange some residential and hotel uses.
15. The revised proposal calls for the construction of a mixed-use development, including an office building fronting on Pennsylvania Avenue and a hotel/apartment building fronting on Indiana Avenue, together with a public landscaped garden lying in between. Retail space will be provided on the first floor of each building, and there will be three levels of parking including 364 spaces and other support uses located below grade. The FAR for the total site would be 6.53, and its lot occupancy would be sixty-three percent. It is presently contemplated, however, that the project be developed upon two lots, one encompassing the hotel/apartment building and garden, and the other encompassing the office building.
16. The two buildings have been scaled to the heights of their respective neighbors across Indiana and Pennsylvania Avenues. The new office building will incorporate the facade of the Atlantic Coastline Building, and the cornice height and horizontal bonding pattern of the building are carried through in the street facades of the entire project, creating a "background building" to set off the smaller and older fragments of the late 19th Century city. Both buildings step-back above the eighty-four foot high base. The applicants believes that terracing and vertical step-backs help to diminish the project's mass.
17. The height requested makes it possible to open-up the site to a significant degree at the ground level for pedestrians. The section of C Street between the north and south buildings is proposed to be closed and designed as a quiet, landscaped garden, lined with retail arcades and open to the public. A second pedestrian way would pass north-south through the garden and the lobbies of the office and hotel-residential structures. Another north-south passageway between Indiana and Pennsylvania Avenues at the western edge of the new development would serve pedestrians and emergency vehicles.
18. The Pennsylvania Avenue streetscape would be paved and planted to PADC standards for the Avenue including brick pavers, Willow Oak trees, granite curbs, and specified street furniture and tree grates. Sidewalks on Sixth Street and Indiana Avenue will be treated in a compatible manner.

19. The revised application proposed that the office building would have a height of 110 feet, an FAR of 7.35, a lot occupancy of 82.9 percent, a gross floor area of 251,958 square feet, 28,392 square feet of which is first floor retail space, and 175 parking spaces.
20. The revised application further proposes that the hotel/apartment building would have a height of 130 feet, an FAR of 6.04, a lot occupancy of 50.4 percent, a gross floor area of 341,198 square feet, and 189 parking spaces. The hotel component would have 240 rooms and the apartment component have 196 dwelling units, subject to the flexibility requested by the applicants.
21. The applicants requested, through testimony, permission to change the use of the lowest apartment floor (Floor 8) to hotel use, and that they be permitted to divide the floors which are devoted to apartment use (Floors 8-14 or 9-14) into whatever number of units appears most appropriate in light of market factors existing at or much closer to the time they are actually built. Any changes from the particular program of 240 hotel rooms and 196 housing units would require PADC approval.
22. At the public hearing held on January 10, 1983, the Commission was presented with conflicting testimony and evidence on the height of the roof structures for the subject building. The testimony of the architect, the model on display and the plans prescribed were at variance. The applicants were directed to submit plans resolving these differences. At the public hearing held on January 31, 1983, the applicants submitted revised plans for the entire project incorporating all revisions and changes made to that point and representing the project for which approval was requested. The sections show the roof structures not exceeding twelve feet in height above the level of the roof upon which they were located. The elevations show the roof structures at eighteen feet, six inches in height. At the public hearing, the applicants' architect indicated that the roof structures were to be eighteen feet, six inches in height.
23. The applicants propose that 37.4 per cent of the subject site be left open to the sky, landscaped and kept open for public use. This open area will include a formal "public garden" lying between the two buildings in a portion of what is now C Street. The applicants testified that the garden area would be a "public way." That area should remain open to the public at all times except for closing for security

purposes during early morning hours. In addition, at the western boundary of the site is a north-south passageway linking Indiana and Pennsylvania Avenues. This latter area will be landscaped, but, because of the requirements of the D.C. Fire Department, must also remain available for emergency vehicular use. A third landscaped area within the site will lie in front of the entrance to the hotel/apartment building, along Indiana Avenue.

24. The applicants propose to provide a total of 364 parking spaces in a below-grade garage of three levels. This garage will sit under both buildings, as well as the garden in between, and will be accessible from entrances located in each building, along the Sixth Street frontage.
25. The applicants' traffic and parking consultant testified that, because of the available subway and surface public transportation in the vicinity of the site, the number of parking spaces being provided is appropriate. He further testified that the two full-size loading berths which are located in each building, immediately adjacent to the garage entrances, are adequate to accommodate the anticipated demand for their use, and concluded that they would fully meet that demand, even if one berth in each building is partially occupied by a trash dumpster.
26. The applicants' economic and marketing consultants, testified that certain hotel operators might require more hotel rooms than the 240 rooms available on Floors 2-7, and that this possibility required the flexibility to provide the additional floor for hotel use. With respect to the actual size and number of apartment units to be provided, the testimony supported a conclusion that, from a planning perspective, it is too early to lock a developer into a particular mix of units of a particular size.
27. The applicants requested to be given the discretion, upon approval by PADC, to build the project in two phases, with construction of the second building to proceed no later than three years after construction of the first building has commenced. The applicants offered to build the public garden as part of the first phase, whether it be the office or hotel/apartment building. The applicants indicated that this requested flexibility is mandated by the economic climate now existing, as well as the magnitude of the project.
28. The D.C. Office of Planning (OP), by memoranda received on December 10, 1982 and March 15, 1983, and by testimony presented at the public hearing, recommended

approval of the application, subject to proposed development conditions. The OP believed that the project is an integral component of a planned major new residential community centered on Seventh Street north of Pennsylvania Avenue. In reference to the major planning and policy goals of the city, the OP reported that the proposal is compatible and/or consistent with:

- a. Section 7501 of the Zoning Regulations of the District of Columbia,
 - b. The 1969 Downtown Urban Renewal Plan,
 - c. The 1974 Pennsylvania Avenue Plan,
 - d. The 1979 adopted Goals and Policies element of the Comprehensive Plan, and
 - e. The 1982 recommendations by the Mayor's Downtown Committee for the Downtown Plan focus in the Market Square area.
29. The OP further believed that the Market Square area is an important node in the PADC Preservation Plan. The proposed project exhibits a reasonable compromise between preservation, the building's relationship to surrounding historic elements and the achievement of a viable development program. Incorporation of the Atlantic Coastline Building facade and the carry-through of its cornice height and horizontal bonding pattern throughout the street facade of the entire project, provide a strong fit between the new development and its 19th Century historic neighbors. While the OP was concerned about the impact of the project's height on the landmark buildings to the west, the Apex and the NBW buildings, it believed that the project strikes a balance between development and preservation. The Commission so finds.
30. The D.C. Department of Environmental Services (DES), by memorandum to OP dated November 3, 1982, reported that the DES had no objection to the proposal.
31. The D.C. Public Schools, by memorandum to OP dated October 21, 1982, reported that the proposed project would have no adverse impact upon the school system.
32. The D.C. Fire Department (DCFD), by letter to the D.C. Surveyor's Office dated November 1, 1982, indicated that the DCFD would approve the proposed street closing, subject to the recordation of a covenant insuring the requirements for fully sprinkling both buildings, and requirements for the fire lane.

33. The D.C. Department of Recreation (DCRD), by memorandum to OP dated November 9, 1982, reported that the impact of the project on existing recreation services is minimal. The DCRD believed that the developer should be encouraged to provide private recreation facilities, and investigate alternatives to insure the provision of easily accessible and adequate recreation opportunities for the inhabitants of the residential portion of the project.
34. The D.C. Metropolitan Police Department (DCPD), by memorandum to OP dated December 7, 1982, recommended that favorable consideration be given to this application. The DCPD believed that from a crime reduction point-of-view, frequently the most practical building designs will cost no more than alternatives. The DCPD further believed that it is in the city's best interest to encourage the developer to choose such designs whenever possible.
35. The D.C. Office of Business and Economic Development (OBED), by memorandum to OP dated December 13, 1982, noted various economic development impacts, favorable to the district, including, new tax revenue, new jobs and downtown revitalization.
36. The State Historic Preservation Officer (SHPO), for the District of Columbia, by letter to the Zoning Commission dated February 22, 1983, indicated approval of maintaining the existing building line on Indiana Avenue and "C" Street as a pedestrian mall, and preserving the Atlantic Coastline Building facade and incorporating it into the new building. The SHPO, however, noted disapproval with the proposed building, design and scale, and urban design features associated with neighboring buildings.
37. The D.C. Department of Transportation (DCDOT), by memorandum to the OP dated December 15, 1982 and by testimony presented at the public hearing, supported the application, subject to compliance with the following conditions:
 - a. that Sixth Street be widened north of C Street to conform to the curb line south of C Street;
 - b. that the driveway to the garage north of C Street be used for ingress only, and that the driveway to the garage south of C Street be used for egress only;
 - c. that wheelchair ramps be provided at C Street; and
 - d. that the use of loading areas by large vehicles be

restricted during the A.M. and P.M. peak periods.

38. The DCDOT, by memorandum to the Zoning Commission dated February 18, 1983, indicated that a resolution of the dispute regarding the ingress and egress to the garage was accomplished subsequent to the conclusion of the public hearing. The resolution permits each driveway to be used for both ingress and egress, but prohibits left turns by cars exiting the driveways and also prohibits left turns into the driveways by cars moving north on Sixth Street.
39. Advisory Neighborhood Commission (ANC)-2C, by letters to the Zoning Commission dated December 14, 1982 and January 21, 1983, voted that it "supports the project with the provision that there will be commitment to equal employment opportunity, affirmative action and local participation goals and objectives in the construction and later operation of the entire project."
40. The Historic Central National Bank Redevelopment Group, party in the case, by testimony presented at the public hearing, supported the application because the proposal would remove blight, spur other development, help stabilize the area with an improved mix of activities, and would serve as a magnet to anchor the eastern end of Pennsylvania Avenue with retail facilities. The Commission so finds.
41. A representative of Abe Pollin, owner of 633 Indiana Avenue, N.W., by testimony presented at the public hearing, supported the application because the proposal would improve the quality of life for workers in the area. The Commission so finds.
42. Don't Tear It Down (DTID), by testimony presented at the public hearing, applauded the two-building concept, and the introduction of housing in the integration of the Atlantic Coastline Building. The DTID opposed the large development scale, the breaking of the Pennsylvania Avenue facade with a north-south pedestrian way, the lack of development sensitivity for the Apex and the National Bank of Washington buildings, and the relationship of the orientation of the proposed housing units to the area.
43. As to the provisional support of the application by ANC-2C, the Commission shares those concerns but notes that equal employment and affirmative action opportunities, and local construction and operation objectives are beyond the jurisdiction of the Zoning Commission and land-use controls.

44. As to the concerns of the DCFD regarding fire safety and the concerns of the DCDOT regarding traffic safety, the Commission is mindful that the applicants are well-advised to coordinate with those agencies to resolve any differences before the applicants apply for permits.
45. As to the concerns of the DCDR, regarding on-site recreation facilities, the Commission finds that the applicants propose to construct a health facility and a swimming pool in the hotel/apartment building.
46. As to the concerns of the State Historic Preservation Officer (SHPO) regarding urban design impact, the Commission finds that the hotel/apartment building has been setback from Indiana Avenue and "C" Street so as to maintain the vistas that are important to the pedestrian use of the area and the L'Enfant Plan. The Commission is mindful of development constraints along Indiana Avenue (e.g., storage vaults, parking garage and utilities) which required the applicant to plant a single row of trees, in lieu of a double row of trees, as per the District's Streetscape Plan for Downtown. The Commission believes that the applicants' landscaping plan is an appropriate and effective urban design approach. The Commission further believes that the orientation of the residential uses is appropriate in relationship to the hotel, office, and retail uses associated with this application.
47. As to the concerns of the SHPO regarding the design and scale of the project, the Commission finds that the applicants have demonstrated respect for and sensitivity to scale by terracing-back the upper levels of the project, and duplicating and continuing the cornice line along Pennsylvania Avenue of an adjacent building. The Zoning Commission notes that the Commission of Fine Arts reviewed the preliminary design of this project in March 1982 and gave the project conceptual approval with two areas recommended for additional study. The Zoning Commission is mindful that the applicants must receive final design review from the Commission of Fine Arts before the project can go forward.
48. As to the concerns of the DTID that have not previously been addressed, the Commission finds that the breaking of the Pennsylvania Avenue facade with a north-south pedestrian way is a feature that is of grave importance to the D.C. Fire Department and is acceptable to the Zoning Commission upon balancing all of the landscape and urban design amenities.
49. As to the applicant's request for flexibility to use

one floor in the hotel/apartment building for either hotel or residential use based on marketing factors at the time of construction, the Commission finds this to be a reasonable request and does not feel that the granting of such condition would adversely affect the interests of the city or the Commission.

50. At its public meeting held on March 21, 1983, the Zoning Commission proposed to approve the application subject to a series of guidelines, conditions and standards. Condition No. 16 provided, in part, that if the project were constructed in phases, application for a building permit for the second phase must be filed within three years of the issuance of the permit for the first phase. The condition further provided for revocation of the certificate of occupancy for the first phase if the second phase was not constructed according to schedule. The Commission believed that this condition was necessary to assure, to the greatest intent possible, that the entire project would be built.
51. The proposed action of the Zoning Commission was referred to the National Capital Planning Commission (NCPC) under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. The NCPC reported that the proposed action of the Zoning Commission would not adversely affect the Federal interest in the preservation and protection of Indiana and Pennsylvania Avenues, designated Special Streets and Category I Landmarks, the Pennsylvania Avenue Historic District, the adjacent Apex/Brady and National Bank of Washington landmark structures or other nearby designated landmarks of the National Capital and other Federal interests in the National Capital nor be inconsistent with the Comprehensive Plan for the National Capital, except Condition No. 16 of the guidelines, conditions and standards, which may adversely affect the Federal interest in the timely implementation of the Pennsylvania Avenue Development Area Plan by precluding the financing of construction of the proposed development and/or the leasing of space in the development after its completion.
52. At its public meeting held on May 16, 1983, the Commission considered a motion filed by the applicant to waive the Rules of Practice and Procedure and reconsider three conditions contained in the proposed action. The Commission determined that no good cause for waiving the Rules had been demonstrated, and denied the applicant's motion.
53. On its own motion, the Commission determined to reconsider the proposed action.

54. Upon review of the report of the NCPC and the record in this case, the Commission finds that it is not necessary in this case to impose the stringent phasing controls and penalties that were originally proposed. Another public agency, the Pennsylvania Avenue Development Corporation, will play a direct role in the implementation of this project. The resources of and remedies available to the PADC outweigh those of the Zoning Commission. Accordingly, there is no need to apply strict phasing controls.

CONCLUSIONS OF LAW

1. The Planned Unit Development process is an appropriate means of controlling development of the subject site, since control of the use and site plan is essential to insure compatibility with the neighborhood.
2. The development of this PUD carries out the purposes of Article 75 to encourage the revitalization of the eastern sector of Downtown, which will offer more attractive and efficient overall planning and design without sacrificing creative and imaginative planning.
3. Approval of the application would be consistent with the purposes of the Zoning Act (Act of June 20, 1938, 52 Stat, 797) by furthering the general public welfare and serving to stabilize and improve the area.
4. The proposed application can be approved with conditions which would insure that the development would not have an adverse affect on the surrounding community.
5. The approval of the application would promote orderly development in conformity with the entirety of the District of Columbia zone plan, as embodied in the Zoning Regulations and Maps of the District of Columbia.
6. In making its decision on this application, the Zoning Commission has accorded the Advisory Neighborhood Commission-2C the "great weight" to which it is entitled.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Commission hereby orders APPROVAL for a consolidated PUD for lots 12, 15-17,

807, 808, and 810-813 in Square 459 and for lots 7, 800 and 806-809 in Square 460, subject to the following conditions, guidelines and standards:

1. The planned unit development shall be developed in accordance with the plans prepared by the associated architects of Eisenman/Robertson and Leo A. Daly, dated July, 1982, with revisions through January 31, 1983, marked as Exhibit No. 49 of the record, as such plans may be modified to conform to the guidelines, conditions and standards of this Order.
2. The planned unit development shall be a mixed use project consisting of hotel, residential, office, retail and ancillary uses.
3. The height of the office building shall not exceed 110 feet. The height of the hotel/apartment building shall not exceed 130 feet.
4. Roof structures may exceed the heights set forth above, provided that they do not exceed eighteen feet, six inches above the level of the roof upon which they are located. Roof structures shall further comply with the requirements of Section 3308 and Paragraph 5201.24.
5. The floor area ratio for the entire planned unit development shall not exceed 6.53.
6. The overall lot occupancy for the planned unit development shall not exceed sixty-three percent.
7. Off-street parking for a minimum of 364 vehicles shall be provided in the below-grade levels of the project. All or any portion of these spaces may be offered to the general public on either a short-term or long-term basis.
8. A total of four loading berths shall be provided as shown on Exhibit No. 49, Drawing 5, dated July 1982, revised December, 1982.
9. A fire lane having a minimum width of twenty feet shall be provided on the western edge of the site running between Pennsylvania and Indiana Avenues, constructed in accordance with the standards of the D. C. Fire Department.
10. A recreation/health facility shall be provided, including a swimming pool accessible to residents of the project.

11. Floors two through seven of the hotel/apartment structure shall contain a minimum of 240 hotel rooms. Floors nine through fourteen shall contain a minimum of 150 apartment units. In order to provide flexibility to meet market demand, the eighth floor may be used for either hotel rooms or apartment units in excess of the number of units otherwise required.
12. Consistent with the minimum number of units established above, the applicants may divide the square footage of each hotel or apartment floor into any size and number of units.
13. Ingress and egress to the project shall be as agreed to by the applicants and the D. C. Department of Transportation, as shown on the plans marked as Sheet 2 of Exhibit No. 65 of the record. There shall be two separate access points to the parking garage, each serving as an entrance and an exit. No left turn movements shall be permitted into or out of the parking garage. Improvements to public space shall be as shown on Sheet 2 of Exhibit No. 65 of the record. The cost of such improvements shall be borne by the applicants.
14. No vehicle longer than twenty feet shall enter or leave the loading berths between the hours of 7:00 A.M. and 9:00 A.M. and 4:00 P.M. and 6:00 P.M. No vehicle parked in the loading berth shall extend past the line of the building at any time.
15. The public garden, the arcades adjacent thereto, and the north-south passage along the western boundary of the property shall be open to the general public on a continuous basis, with no purchases required for admission, except that these areas may be closed between the hours of 3:00 A.M. and 6:00 A.M. These areas shall be kept clean of debris and all plantings shall be maintained in an attractive and viable condition. In these areas, the applicants may permit retail uses not requiring permanent structures, such as flower carts, food carts, etc., provided however, that a passage at least seven feet wide through each of the arcades shall remain clear as a pedestrian walkway at all times.
16. The planned unit development may be constructed all in one phase or in two phases. If the project is to be constructed in two phases, either the office building or the hotel/apartment building may be constructed first.

17. In the event that the project does proceed in phases, the public garden shall be fully constructed and landscaped as part of the first phase in accordance with drawings Nos. 19 and 20 of Exhibit No. 49 of the record, dated July, 1982, revised December, 1982. The garden shall be separated from the undeveloped portion of the site by an appropriate decorative wall. The applicants may make such modifications to the existing plans for below-grade construction as are necessary to proceed in phases.
18. No building permit shall be issued for this planned unit development or any portion thereof until the applicant has recorded a covenant applicable to the entire PUD site in the land records of the District of Columbia, between the owner and the District of Columbia, satisfactory to the office of the Corporation Counsel and the Zoning Regulations Division, which covenant shall bind the applicant and successors in title to construct on and use this property in accordance with this Order, or amendments thereof, of the Zoning Commission. When the covenant is recorded, the applicant shall file a certified copy of that covenant with the records of the Zoning Commission.
19. The planned unit development approved by the Zoning Commission shall be valid for a period of two years from the effective date of this Order. Within such time to continue the effectiveness of the approval, application must be filed for a building permit for either the entire project or the first phase, as specified in Paragraph 7501.81 of the Zoning Regulations. Construction shall start within three years of the effective date of this Order.

Vote of the Zoning Commission taken at the public meeting on March 21, 1983: 3-1 (Walter B. Lewis, John G. Parsons, and Lindsley Williams, to approve with conditions - Maybelle T. Bennett, opposed and George M. White, not present not voting).

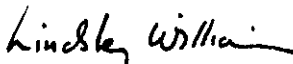
Vote of the Zoning Commission taken at the public meeting on May 16, 1983: 5-0 (George M. White, Walter B. Lewis, John G. Parsons, Maybelle T. Bennett, Lindsley Williams, to reconsider the proposed action).

This application was approved and this order was adopted by the Zoning Commission at its public meeting on May 16, 1983 by a vote of 3-1 (Walter B. Lewis, John


G. Parsons, and Lindsley Williams, to adopt as amended - Maybelle T. Bennett, opposed and George M. White, not voting not having participated in the case).

In accordance with Section 4.5 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, this order is final and effective upon publication in the D.C. Register, specifically on JUN 10 1983.

This amendment to the Zoning Map shall not be effective until the covenant required by Article 75 of the Zoning Regulations is recorded in the land records of the District of Columbia.



LINDSLEY WILLIAMS
Chairman
Zoning Commission



STEVEN E. SHER
Executive Director
Zoning Secretariat

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